

IN THE CIRCUIT COURT FOR BRADLEY COUNTY, TENNESSEE

CHERYL MACMILLAN,

Plaintiff

v.

SECURITY BENEFIT LIFE INSURANCE
COMPANY,

Defendant.

Docket No. V-1557

Jury Demanded

TR
F
ED

2015 JUN 26 PM 2:59

CIRCUIT COURT
CLERK
BRADLEY
COUNTYCOMPLAINT

Your Plaintiff Cheryl MacMillan hereby says:

1. Cheryl MacMillan is a resident of Bradley County, Tennessee.
2. At all times applicable hereto, the decedent Patricia Gene Sadler (Sadler) was a Bradley County resident and resided with the Plaintiff at 174 Old Pond Road, SE, Cleveland, Tennessee.
3. Security Benefit Life Insurance Company (Security) is a life insurance company with its principal place of business in Topeka, Kansas at One Security Benefit Place, Topeka, Kansas 66636.
4. This cause of action accrues from the Defendant's retention and conversion of annuity death benefits owed to the Plaintiff in an amount exceeding \$145,011.28.
5. From April 2006 until September of 2014, Sadler had a variable annuity contract with MetLife USA Insurance Company (MetLife), Contract No. 3201609425. Attached hereto is a copy of Patricia Sadler's MetLife USA Insurance Company statement from July 1, 2014 through September 30, 2014 indicating that the contract had a death benefit future value of \$148,126.82.

EXHIBIT

A

6. At all times applicable hereto, the Plaintiff was the death beneficiary of the MetLife contract listed in the previous paragraph. A copy of MetLife's letter of January 13, 2015 evidencing that the above-referenced MetLife contact only listed Cheryl MacMillan as the beneficiary is attached as Exhibit B.

7. In late September or early October 2014, Sadler sought to transfer her MetLife proceeds to another company's annuity contract. Accordingly, Sadler met with Rick Hughes of Hughes & Associates in Cleveland, Tennessee and the attached Security Total Value Annuity Application was completed by Ms. Sadler again listing Cheryl MacMillan as her primary beneficiary. See Exhibit C.

8. Your Defendant acted on the annuity application (Exhibit C) and issued a letter to MetLife requesting transfer of Patricia Sadler's assets from Contract 32016094 to Security. Security assigned Ms. Sadler's assets a contract number of their own, Contract No. 5440032233 and received transferred benefits from MetLife in excess of \$145,000.00. Attached hereto as Exhibit D is a copy of Security Assistant Vice President's request to MetLife for the transfer of the above-referenced funds. Upon verification by MetLife representatives, Security is holding \$145,011.28 of proceeds that are due to the Plaintiff as the beneficiary under either the original MetLife contract or the Security contract.

9. On November 23, 2014, Patricia Sadler died. A copy of the State of Tennessee Certificate of Death is attached hereto as Exhibit E.

10. Following Patricia Sadler's death, the Defendant has taken the position that no contractual basis existed for the annuity between Patricia Sadler and the Defendant (Contract 5440032233). Nevertheless, Security has continued to hold benefits clearly owed to the Plaintiff as the death beneficiary under either the MetLife or Security contracts without a legal

basis and without the permission of the Plaintiff. Security continues to hold Patricia G. Sadler's death benefits to the detriment of the Plaintiff.

11. Since Security contends that they have no contractual right to retain the annuity benefits, Security's continued retention of these funds constitutes a conversion and/or trover.

Attached hereto is Plaintiff's counsel's letters of January 5 and January 13, 2015 wherein Plaintiff requested any documentation which allowed the Defendant to retain the funds along with a demand on behalf of the contractual beneficiary Cheryl MacMillan for the death benefit values. (See Exhibits F & G). Security has ignored these demands.

12. Demand for possession by the Plaintiff of the death benefits and the Defendant's refusal and continued deprivation of the Plaintiff's own use and benefit of said funds (in defiance of the Plaintiff's right) constitutes an intentional act by the Defendant to do wrong and cause the result renders the Defendant responsible for punitive damages.

WHEREFORE, your Plaintiff prays that the Plaintiff be awarded the amounts being held by the Defendant to which she is entitled and a judgment of punitive damages in an amount not to exceed two times the amount of funds converted. Additionally, the Plaintiff requests that a jury of twelve be empaneled to try the issues in this case.

Respectfully submitted,

LOGAN-THOMPSON, P.C.

By Robert G. Norred, Jr. by 7th
ROBERT G. NORRED, JR (BPK#012740)
Attorneys for Plaintiff
PO Box 191
Cleveland, TN 37364-0191

COST BOND

We, the undersigned Principal and Surety, do hereby acknowledge ourselves as security for the costs of this cause, not to exceed \$1,000.00.

LOGAN-THOMPSON, P.C., Principal and Surety,
by

Robert C. Noland Jr. Esq.



MetLife Investors USA Insurance Company
 P.O. Box 10368
 Des Moines, IA 50306-0368
 1 (800) 343-8496
 www.metlifeinvestors.com

MLI USA Variable Annuity Series XC
 Quarterly Statement
 July 01, 2014 - September 30, 2014

Advisor Name(s):
 MetLife Investors
 MetLife Investors

444372-088-0555
 PATRICIA G SADLER
 174 OLD POND ROAD
 CLEVELAND TN 37323-7785

General Contract Information

Contract Number 3201609425
 Issue Date 04/04/2006
 Account Type (Tax Market) Non-Qualified
 Owner(s) PATRICIA G SADLER
 Annuitant(s) PATRICIA G SADLER
 Maturity Date (8) 12/01/2038

Total Purchase Payments Since Issue

\$187,612.37

Total Withdrawals Since Issue

\$76,725.00

11/23/14
 Deceased

Quarterly Account Summary

July 01, 2014 Opening Account Value ⁽¹⁾	\$154,105.30
Purchase Payments	\$0.00
Gross Withdrawals	(\$2,325.00)
Gain or (Loss) 07/01/2014 - 09/30/2014 ⁽²⁾	(\$3,653.48)
September 30, 2014 Account Value ⁽³⁾	\$148,126.82

Benefits Overview

Death Benefit Features

Death Benefit Value ⁽⁷⁾ \$148,126.82

SBC RETURNED
 \$145,011.88
 Return 11/18/14

Guaranteed Minimum Income Benefit ⁽⁸⁾

Annual Increase Percentage	5.00%
Income Base ⁽⁹⁾	\$176,019.61
Annual Increase Amount (as of last contract anniversary) ⁽¹⁰⁾	\$175,841.31

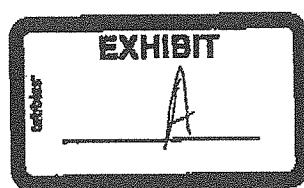
September 30, 2014 Value Allocations

Fund Name	# of Units ⁽⁴⁾	Fund Balance	Allocation %
MetLife Asset Allocation 80 Portfolio	9,818.44	\$148,126.82	100.0%

Percentages may not equal 100% as they are rounded to the nearest percent.



100.0%



444372-Q121P-088-0555

0555-001-001-59

MetLife
P.O. Box 10366
Des Moines IA 50306-0366

MetLife

January 13, 2015

CHERYL MACMILLAN
174 OLD POND RD SE
CLEVELAND, TN 37323

RE: **CONTRACT 3201609425**
OWNER PATRICIA G SADLER

Dear Ms. MacMillan:

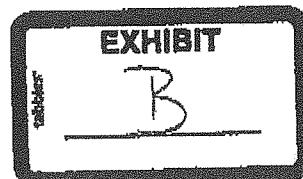
This letter is in response to your inquiry on the above referenced contract.

According to our records, the primary beneficiary at the time the contract closed was listed as Cheryl MacMillan at 100%.

If you have any questions, please contact your representative or call our Customer Service Center at 1-800-343-8496 Monday through Friday between 8:30 a.m. and 8:30 p.m., ET.

Sincerely,

Aaron Miller
Annuity Representative - Post Issue Processing
MetLife Annuity Operations and Services



Metropolitan Life Insurance Company • MetLife Insurance Company USA • New England Life Insurance Company • First MetLife Investors Insurance Company


Security Benefit Total Value Annuity Application

Issued by Security Benefit Life Insurance Company. Questions? Call our National Service Center at 1-800-888-2481.

Note the following restrictions:

- The Owner of the Contract must be the Annuitant (unless the Owner is a non-natural person).
- If Joint Owners are named, neither the Owner nor Joint Owner may be a non-natural person, and the Owner and Joint Owner must both be named as sole Primary Beneficiaries.
- If you select the Income Rider or Death Benefit Rider and Joint Owners are named, the Owner and Joint Owner must be spouses.
- If you select the Income Rider, if the sole Designated Beneficiary is someone other than a spouse, due to requirements under the Internal Revenue Code, income payments will not continue after the death of the first spouse notwithstanding the fact that a Joint Life Payout has been selected. Please consult your tax advisor.

1. Provide Contract Owner Information

Name of Contract Owner Patricia G Sadler Male Female
 First MI Last

Mailing Address 174 Old Pond Rd SE Cleveland TN 37323
 Street Address City State ZIP Code

Residential Address
 (if different from mailing address) Street Address City State ZIP Code

Social Security Number/Tax I.D. Number 0436 Date of Birth 1/943
 (mm/dd/yyyy)

Daytime Phone Number 423-559-7921 Home Phone Number Same #

2. Provide Joint Owner Information

Name of Joint Owner Male Female
 First MI Last

Mailing Address Street Address City State ZIP Code

Residential Address
 (if different from mailing address) Street Address City State ZIP Code

Social Security Number/Tax I.D. Number Date of Birth
 (mm/dd/yyyy)

Daytime Phone Number Home Phone Number

3. Provide Annuitant Information

Same as Contract Owner

Name of Annuitant Male Female
 First MI Last

Mailing Address Street Address City State ZIP Code

Residential Address
 (if different from mailing address) Street Address City State ZIP Code

Social Security Number/Tax I.D. Number Date of Birth
 (mm/dd/yyyy)

Daytime Phone Number Home Phone Number



Please Continue

4. Provide Primary and Secondary Beneficiary(ies)

For additional Primary Beneficiaries, please attach a separate list to the end of this application.

	Primary Beneficiary Name	Address (city, state, zip)	Phone No.	Social Security No.	DOB (mm/dd/yyyy)	Relationship to Contract Annuitant	% of Benefit
1.	Cheryl MacMillan	174 Old Pond Rd SE Cleveland, TN 37323	(423) 559-7921	5432	1953	Friend	100
2.							
3.							

For additional Secondary Beneficiaries, please attach a separate list to the end of this application.

	Secondary Beneficiary Name	Address (city, state, zip)	Phone No.	Social Security No.	DOB (mm/dd/yyyy)	Relationship to Contract Annuitant	% of Benefit
1.							
2.							
3.							

5. Choose Optional Riders

Note: You may purchase only one of the riders listed below.

Income Rider

- The Home Healthcare Doubler feature of the Income Rider is only available if you, the Annuitant, or if the contract will be jointly owned, the Owner and Joint Owner, can perform all of the Activities of Daily Living as defined on page 6 of this Application. Please read the definitions and certify by checking the following box.
- By checking this box, I (we) certify that I (we) am (are) capable presently of performing all six of the Activities of Daily Living defined on page 6 of this Application.

Death Benefit Rider

- The Death Benefit Rider is only available if you, the Annuitant, or if the contract will be jointly owned, the Owner and Joint Owner, do not have a Terminal Illness. Certify below by checking the following box.
- A Terminal Illness is an incurable condition that, with a reasonable degree of medical certainty, will result in death within one year from the date of the Licensed Doctor's statement.
- By checking this box, I (we) certify that I (we) have not been diagnosed by a Licensed Doctor as having a Terminal Illness.

Please Continue 



October 31, 2014

||||||||||||||||||
METLIFE
4700 WESTOWN PKWY
W DES MOINES IA 50268-2268

RE: Contract Number: 5440032233
Social Security No: ***-**-0436
Your Account No: 3201609425
Transfer to: Non-Qualified Annuity

Annuitant Name: PATRICIA G SADLER
Owner Name(s): PATRICIA G SADLER

On behalf of PATRICIA G SADLER, Security Benefit Life Insurance Company (Security Benefit) is writing to request a transfer of assets from your account to ours. Ownership of this policy has been assigned to Security Benefit Life Insurance Company. The surrender request has been duly signed by an officer of the Company.

The assets you hold should be redeemed as directed by the owner immediately upon your acceptance of the attached forms submitted by PATRICIA G SADLER. Please make the check for the proceeds payable to:

Security Benefit Life Insurance Company
ATTN: Annuity Administration
P.O. Box 750500
Topeka, KS 66675-0500

Enclosed with your check please include the following applicable policy information:

Non-Qualified 1035 exchanges:

1. Cost Basis (Contributions) before August 14, 1982 (Pre-Tefra) \$ _____
2. Cost Basis (Contributions) after August 13, 1982 (Post-Tefra) _____
3. Total Withdrawals _____

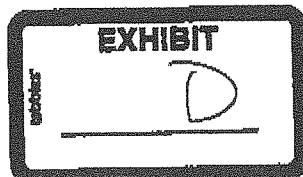
If you have any questions or need additional information, please contact us at 1-800-888-2461.

Sincerely,

Assistant Vice President, Operations and Project Management
Security Benefit Life Insurance Company

Enclosure(s)

CC: RICK D HUGHES



COPY

LAW OFFICES

LOGAN-THOMPSON, P.C.

James F. Logan, Jr.
 James S. Thompson
 Kenneth L. Miller
 Robert S. Thompson
 Philip M. Jacobs
 Robert G. Norred, Jr. *
 *Also licensed in Georgia

Professional Corporation
 30 Second Street, NW
 P. O. Box 191
 Cleveland, TN 37364-0191

Matthew G. Coleman
 Laurie H. Hallenberg
 James S. Webb, Of Counsel
 Bill B. Moss (1938-2014)
 T: (423) 476-2251
 F: (423) 476-2252
www.loganthompsonlaw.com

January 5, 2015

Security Benefit Life Insurance Company
 Attn: Annuity Administration
 PO box 756500
 Topeka, Kansas 66675-0500

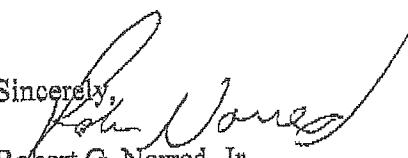
RE: Contract Number: 5440032233
 SS#: ***.**,0436
 MetLife Acct. #: 3201609425
 Transfer to : Non-Qualified Annuity
 Annuitant Name: Patricia G. Sadler
 Owner Name: Patricia G. Sadler

Gentlemen:

Our firm represents Cheryl MacMillan who is the beneficiary of an annuity contract referenced above. Attached hereto is a Certificate of Death indicating that the Annuitant Patricia G. Sadler died on November 23, 2014 as a result of ovarian cancer and aortic stenosis. We have previously been advised that this contract had a death value of \$148,126.82 as of September 30, 2014.

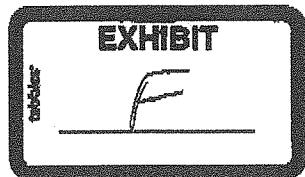
Demand is hereby made on behalf of the contractual beneficiary Cheryl MacMillan for the death benefit values. In connection with this claim, we would appreciate you providing us a copy of the annuity contract, designation of beneficiary and any correspondence pertinent to this contract. If we do not receive a response within 10 days of the date of this letter, we will advise Ms. MacMillan as to her other legal options.

We look forward to hearing from you.

Sincerely,

 Robert G. Norred, Jr.

RGNjr:bjm
 cc: Rick Hughes, Hughes and Associates
 4160 North Ocoee Street
 Cleveland, TN 37312

Building a Tradition of Legal Services



LAW OFFICES

LOGAN-THOMPSON, P.C.

James F. Logan, Jr.
 James S. Thompson
 Kenneth L. Miller
 Robert S. Thompson
 Philip M. Jacobs
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 Bill B. Moss (1938-2014)
 T: (423) 476-2251
 F: (423) 476-2252
www.loganthompsonlaw.com

January 13, 2015

Via Facsimile #877-547-9666

Mr. Aaron Miller
 MetLife Investors USA Insurance Company
 PO Box 10366
 Des Moines, Iowa 50306-0366

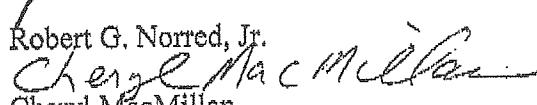
RE: Contract Number: 5440032233
 SS#: ***.**.0436
 MetLife Acct. #: 3201609425
 Transfer to : Non-Qualified Annuity
 Annuitant Name: Patricia G. Sadler
 Owner Name: Patricia G. Sadler

Dear Mr. Miller:

This will serve as a follow-up to my conversation with you on January 12, 2015 wherein you agreed to provide us evidence of Ms. MacMillan's beneficiary status on the prior annuity contract of Patricia Sadler. Enclosed is a copy of Ms. Sadler's death certificate noting her death on November 23, 2014. On behalf of your beneficiary Cheryl MacMillan, we would greatly appreciate you providing us any documents that you have that still exist showing Ms. MacMillan's status as a beneficiary of the above-referenced annuity contract (3201609425).

We understand that MetLife has sent the check to Security Benefit based on a transfer order and has no contact to reinstate because of the intervening death of Ms. Sadler. Any documents that you may have that would shed some light on this transaction are hereby requested by the beneficiary.

Sincerely,


 Robert G. Norred, Jr.

 Cheryl MacMillan

RGNjr:bjm

Building a Tradition of Legal Services



STATE OF TENNESSEE
Department of Commerce and Insurance
500 James Robertson Parkway
Nashville, TN 37243-1131
PH - 615.532.5260, FX - 615.532.2788
Jerald.E.Gilbert@tn.gov

January 30, 2015

Security Benefit Life Insurance Company
700 Harrison
Topeka, KS 66636
NAIC # 68675

Certified Mail
Return Receipt Requested
7012 3460 0002 8947 5516
Cashier # 18515

Re: Cheryl Macmillan V. Security Benefit Life Insurance Company
Docket # V-15-057

To Whom It May Concern:

Pursuant to Tennessee Code Annotated § 56-2-504 or § 56-2-506, the Department of Commerce and Insurance was served January 30, 2015, on your behalf in connection with the above-styled proceeding. Documentation relating to the subject is herein enclosed.

Jerald E. Gilbert
Designated Agent
Service of Process

Enclosures

cc: Circuit Court Clerk
Bradley County
155 N Ocoee St
Cleveland, Tn 37311

STATE OF TENNESSEE
THE CIRCUIT COURT OF BRADLEY COUNTY, TENNESSEE
SUMMONS

CHERYL MACMILLAN,)	
)	
Plaintiff,)	
)	
vs.)	No. <u>V-15-657</u>
)	
SECURITY BENEFIT LIFE INSURANCE)	Serve: Security Benefit Life Insurance
COMPANY,)	Company
)	c/o Tennessee Dept. of Commerce
Defendant.)	and Insurance

TO THE ABOVE NAMED DEFENDANT(S): Security Benefit Life Insurance Company, 1 SW Security Benefit Place, Topeka, KS 6636-1000.

You are hereby summoned and required to serve upon Robert G. Norred, Jr., plaintiffs' attorney, whose address is PO Box 191, Cleveland, TN 37364-0191, a written answer to the complaint herewith served upon you within 30 days after service of this summons and complaint upon you, exclusive of the day of service. The same answer must be filed with the court. If you fail to do so, judgment by default can be taken against you for the relief demanded in the complaint.

Issued and tested this 26 day of January, 2015

Clark

Deputy Clerk

RETURN

I received this summons on the _____ day of _____, 2015.

[] served this summons and a complaint on defendant _____ in the following manner: _____

failed to serve this summons within 30 days after its issuance because:

Process Server

TO THE DEFENDANT(S):

NOTICE

Tennessee law provides a four thousand dollar (\$4,000.00) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family, and trunks or receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.